

The Gazette of India



EXTRAORDINARY PART II—Section 3 PUBLISHED BY AUTHORITY

No. 119] NEW DELHI, TUESDAY, AUGUST 19, 1952

MINISTRY OF EXTERNAL AFFAIRS NOTIFICATION

New Delhi, the 19th August, 1952.

INSTRUMENT OF RATIFICATION OF THE TREATY OF CESSION OF THE TERRITORY OF THE FREE TOWN OF CHANDERNAGORE BETWEEN THE PRESIDENT OF INDIA AND THE PRESIDENT OF THE FRENCH REPUBLIC SIGNED AT PARIS ON THE SECOND DAY OF FEBRUARY, 1951.

S.R.O. 1466.—Whereas a Treaty of Cession of the territory of the Free Town of Chandernagore was signed at Paris on the second day of February, 1951, by the Representatives of the President of India and the President of the French Republic, which Treaty is, word for word as follows:—

TREATY OF CESSION THE TERRITORY OF THE FREE TOWN OF CHANDERNAGORE.

Preamble

The President of India

and

The President of the French Republic,

Considering that the French Government, in a spirit of friendship and understanding decided, in accordance with the letters exchanged with the Government of the Republic of India on the 29th June 1948 and in conformity with the French Constitution, to recognise that the People of the French Settlements in India have the right to determine for themselves their destiny and their future status,

Considering that after the consultation of the people of the Free Town of Chandernagore which took place on the 19th June 1949, the Government of the French Republic has, at the request of the Government of the Republic of India, accepted the appointment, as a provincial measure, of an Indian Administrator in this territory on the 2nd May 1950,

Considering that the Government of the French Republic and the Government of the Republic of India have both agreed that the Franco-Indian Commission contemplated in Article II of the Protocol annexed to the present Treaty should commence its functions from the 2nd May 1950,

Have decided to conclude a Treaty in order to confirm the cession by the French Republic of the territory of the Free Town of Chandernagore to the Republic of India and to settle the problems which flow from this cession and have appointed for these purposes as plenipotentiaries:

The President of India:

His Excellency Wing Commander Sardar Hardit Singh Malik, Ambassador Extraordinary and Plenipotentiary of India in France,

The President of the French Republic:

Mr. Guy de la Tournelle, Director General for Political Affairs at the Ministry of Foreign Affairs,

who, after having exchanged their letters of authority, which are found to be in order, have agreed to the following :

Article I

France transfers to India, in full sovereignty, the territory of the Free Town of Chandernagore.

Article II

French subjects and citizens of the French Union domiciled in the territory of the Free Town of Chandernagore on the day on which the present Treaty comes into force shall become, subject to the provisions of the next succeeding Article III, nationals and citizens of India.

Article III

The persons mentioned in the preceding Article may, by a written declaration made within six months following the coming into force of the present Treaty, opt for the retention of their nationality.

The declaration of the father or, if the father is dead, that of the mother, shall determine the nationality of unmarried children, less than 18 years of age, who shall be specified in such a declaration. Male children who are married shall be over sixteen years of age to be able to exercise the option themselves.

The declaration of the husband will not determine the nationality of the wife.

These declarations, which will be drawn up in duplicate, one in French, the other in English, will be addressed to the appropriate French authorities who will immediately forward to the appropriate Indian authorities the English copy of the said declaration.

Persons who will have exercised the option mentioned in the preceding paragraphs, will be considered as having never acquired Indian nationality.

Article IV

Persons who will have opted for the retention of their nationality in accordance with the provisions of Article III of this Treaty and who desire to permanently reside or establish themselves in any French territory outside the Free Town of Chandernagore shall, on application to the Government of the Republic of India, be permitted to transfer or remove such or all of their assets and property as they may desire and as may be standing in their names on the date of the coming into force of this Treaty.

Article V

The Government of the French Republic transfers to the Government of the Republic of India all the properties owned by the State and the public bodies lying within the territory of the Free Town of Chandernagore.

Article VI

The Government of the French Republic may retain and remove, in consultation, with the Government of the Republic of India, all archives having a general historic interest, and will place at the disposal of the Government of the Republic of India those archives which are of interest to the local administration of Chandernagore.

Article VII

The Government of the Republic of India shall succeed to the rights and obligations resulting from acts done by France for public purposes concerning the administration of the territory of the Free Town of Chandernagore. Financial and monetary issues arising from the transfer of the said territory shall be examined and determined by the Franco-Indian Commission already set up and referred to under the terms of the Protocol annexed to this Treaty.

Article VIII

Judgements and decrees passed before 2nd May 1950 by French judicial authorities having jurisdiction over the territory of the Free Town of Chandernagore and which have become final shall be executed by the appropriate Indian authorities.

Appeals which lie from judgements and decrees passed by the said authorities before 2nd May, 1950 shall, subject to the law of limitation in force immediately

before the said day, be filed and disposed of as though the said territory had not been transferred to India.

Judgements and decrees from which appeals are pending on 2nd May, 1950 shall be dealt with by the judicial authorities before whom such appeals are pending.

The provisions of the first paragraph of this Article regarding the execution of the judgements and decrees shall apply to the decisions of judicial authorities made under the second and third paragraphs of this Article.

Article IX

The Government of the Republic of India shall assist in the continuance of the French cultural heritage in the territory of the Free Town of Chandernagore in accordance with the wishes of the people of the said territory and shall permit the continuance or establishment of cultural services by the Government of the French Republic.

Article X

The Government of the Republic of India shall take necessary measures to permit the law officers who are not government servants and members of the legal and liberal professions at present practising in Chandernagore to pursue their activities without having to acquire additional qualifications or to obtain new diplomas or licences or to fulfil any other formalities. Such licences shall be renewed, if necessary, on application.

Article XI

Any controversy relating to the application or the interpretation of the present Treaty which cannot be settled through diplomatic negotiations or arbitration shall be brought before the International Court of Justice by petition of either of the High Contracting Parties.

Article XII

The French and English texts of this Treaty shall be deemed to be equally authentic. This Treaty shall come into force on ratification by the governments concerned, the instruments of ratification being exchanged in Paris.

This Treaty shall be deposited in the archives of the Government of the French Republic who shall give one certified copy of the same to the Government of the Republic of India.

Given at Paris with one single copy, February the 2nd, 1951.

(Sd.) M. GUY DE LA TOURNELLE.

(Sd.) HARDIT SINGH MALIK.

PROTOCOL ANNEXED TO THE TREATY OF CESSION OF THE TERRITORY OF THE FREE TOWN OF CHANDERNAGORE.

Article I

The currency issued in Pondicherry and circulating in Chandernagore shall be withdrawn and necessary facilities shall be afforded to the holders of such currency to convert it into Indian currency. The French Indian currency thus withdrawn at Chandernagore by the Government of the Republic of India shall be made over to the French Indian authorities who shall take it over against payment of an equivalent value in Indian currency.

Article II

All financial issues arising out of the Treaty of Cession, including those arising out of the closing of the accounts of the autonomous budget of the Free Town of Chandernagore on 2nd May 1950, shall be examined, and suitable recommendations made to the Governments of the Republic of India and of the French Republic for their settlement, by a Commission consisting of six members, three representing each of the two Governments.

Article III

The Government of the Republic of India shall take over the civil servants and employees of the Free Town of Chandernagore and those of the French establishments in India who may be serving in Chandernagore on 2nd May 1950.

Provided that:

(1) Such civil servants and employees of the French Establishments in India who opt to retain their nationality and elect, within three months of the coming

into force of the Treaty, to serve their original administration shall be permitted to do so, and who, after having exchanged their letters of authority, which are found, to be in order, have agreed to the following:

(2) Such civil servants and employes of the Free Town of Chandernagore and those of the French Establishments in India whom the Government of the Republic of India does not desire to retain in its service shall be given three months notice of the termination of their services within one month from the date of the coming into force of the Treaty and shall be entitled to be paid fair compensation for the premature termination of their services.

Given at Paris with one single copy.

February the 2nd, 1951

GUY DE LA TOURNELLE,

HARDIT SINGH MALIK.

The President of India, having considered the Treaty aforesaid hereby confirms and ratifies the same and undertakes faithfully to perform and carry out all the stipulations therein contained.

In witness whereof this Instrument of Ratification is signed and sealed by the President of India.

Done at New Delhi, the 30th day of May 1952.

Seal.

RAJENDRA PRASAD.

President of India.

Paris, the 2nd February, 1951.

To

HIS EXCELLENCY THE MINISTER FOR FOREIGN AFFAIRS,
PARIS.

MR. MINISTER,

In the course of discussions which have just taken place at Paris between the representatives of our two Governments regarding the Treaty of Cession of Chandernagore, the French Government has expressed a desire that provision should be made in certain clauses of this Treaty:

(1) That those inhabitants of this Territory who would opt for the preservation of their nationality and who would continue to reside in Chandernagore would receive the guarantee from the Government of the Republic of India that they would enjoy without discrimination the rights of man and fundamental liberties and would retain the right to their property, privileges and interests;

(2) that the Government of the Republic of India would not trouble the inhabitants of Chandernagore on account of their political activity preceding that transfer of the territory;

(3) that the Government of the Republic of India will place no obstacles in the way of descendants of persons, who opt to retain French Nationality, conserving the nationality of their ancestors.

In reply, I have informed Your Excellency that my Government thought it unnecessary to mention in the Treaty of Cession the guarantee dealt with in paragraph numbered (1) above, since on the one hand such a guarantee is contained in the Indian Constitution and on the other, India has signed the Declaration of the Universal Rights of Man.

As regards the guarantee mentioned in paragraph numbered (2) above, I pointed out to Your Excellency that India having, like France, submitted beforehand, according to the terms of the exchange of letters between the two governments on the 29th June 1948, to the free determination of the inhabitants of Chandernagore, is thereby pledged not to trouble these inhabitants because of their political activities preceding the transfer of the territory.

Taking note of the assurances thus made to it, the French Government has, however, maintained its request in pointing out that it was necessary, in its opinion, to give to the guarantees in question a more explicit character and place them in closer relation with the transfer of the territory concerned.

I then informed Your Excellency that the Government of India was prepared to mention these two guarantees in a letter which it would send to the French

Government at the time of the signing of the Treaty of Cession and which would be considered as an integral part of the Treaty. In that letter would also be mentioned the guarantee contained in paragraph numbered (3) above, to which the Government of the Republic of India was prepared to agree but which it preferred not to include in the body of the Treaty itself. Your Excellency has, under these conditions, kindly indicated the agreement of your Government to this procedure.

On the other hand, I added that the Government of India was also desirous of receiving the assurance that as far as Art. III of the Protocol annexed to the Treaty of Cession is concerned, it was not the intention of the French Government that the provisions of this article shall apply to officials guilty of misconduct or those who might have voluntarily resigned from service in Chandernagore or ceased to serve there between 2nd May 1950 and the date on which the Treaty comes into force. On this subject Your Excellency has assured me that such was also the interpretation given by the French Government to Art. III of the Protocol.

In the course of the negotiations in question, the French Government, while declaring itself prepared to give up to the Government of India all the properties owned by the State and the public bodies lying within the territory of the Free Town of Chandernagore, has expressed the desire to keep the property of the residence of the Administrator of Chandernagore as well as the furniture and the objects which embellish it.

The French Government was planning to convert this residence into a "Maison de France" where certain souvenirs and certain archives could be collected to commemorate the presence of France in Chandernagore.

I inform Your Excellency that the Government of the Republic of India was not in a position to reply favourably to this request and that it desired that the residence of the French Administration of Chandernagore should also become Indian property.

My Government having stated their intention to place the residence in question at the disposal of the Municipality of Chandernagore, with orders to the latter to install and to maintain there "A House of French Souvenir", the French Government has agreed to give up the request which it had previously made and it has been settled that this question would be decided according to the conditions indicated by the Government of the Republic of India.

Please accept, Mr. Minister, the assurance of my highest consideration.

(Sd.) HARDIT SINGH MALIK.

Ministère

des

Affaires Etrangères

République Française

Paris le 2 février 1951

Monsieur l'Ambassadeur,

Au cours des entretiens qui viennent d'avoir lieu à Paris entre les représentants de nos deux Gouvernements au sujet du Traité de cession de Chandernagor, le Gouvernement français a exprimé le désir qu'il soit prévu dans certaines clauses de ce traité :

(1) Que ceux des habitants de ce territoire qui opteraient pour la conservation de leur nationalité et continueraient à résider à Chandernagor recouvreraient du Gouvernement de la République de l'Inde la garantie qu'ils jouiraient sans distinction des droits de l'homme et des libertés fondamentales et conserveraient la propriété de leurs biens, leurs droits et intérêts;

(2) que le Gouvernement de la République de l'Inde n'inquiéterait pas les habitants de Chandernagor à l'occasion de leur action politique antérieurement à la cession du territoire;

(3) que le Gouvernement de la République de l'Inde ne mettrait aucun obstacle à ce que les descendants des personnes ayant opté pour la nationalité française conservent la nationalité de leurs ascendants.

Votre Excellence a bien voulu me faire connaître en réponse, que son Gouvernement estimait inutile de mentionner dans le Traité de cession la garantie dont il est question au paragraphe numéroté 1 ci-dessus, étant donné d'une part que cette garantie se trouvait inscrite dans la Constitution indienne et d'autre part que l'Inde est signataire de la Déclaration Universelle des Droits de l'Homme.

Concernant la garantie faisant l'objet du paragraphe 2 ci-dessus Votre Excellence m'a indiqué qu'il allait de soi que l'Inde, s'étant comme la France, soumise par avance, aux termes de l'échange de lettres intervenu entre les deux gouvernements le 29 juin 1948 à la libre détermination des habitants de Chandernagor, s'est par la même engagée à ne pas inquiéter ces habitants à l'occasion de leur action politique antérieurement à la cession du territoire.

Le Gouvernement français prenant acte de ces assurances a cependant maintenu sa demande en soulignant qu'il était nécessaire à ses yeux de donner aux deux garanties en question un caractère plus explicite et en rapport plus direct avec la cession du territoire dont il s'agit.

Votre Excellence a bien voulu alors me faire savoir que le Gouvernement de l'Inde était disposé à faire figurer ces deux garanties dans une lettre qu'il ferait parvenir au Gouvernement français au moment de la signature du Traité de cession et qui serait considérée comme faisant partie intégrante de celui-ci. Dans cette lettre figurerait également la garantie inscrite au paragraphe numéroté 3 ci-dessus à laquelle le Gouvernement de la République de l'Inde était prêt à souscrire mais qu'il jugeait préférable de ne pas mentionner dans le corps du Traité de cession. Dans ces conditions j'ai donné mon accord à cette procédure.

Votre Excellence a ajouté que de son côté le Gouvernement de l'Inde était désireux de recevoir l'assurance que, concernant l'article III du Protocole annexe au Traité de cession, il n'entrait pas dans les intentions du Gouvernement français que les dispositions de cet article soient appliquées aux fonctionnaires qui auraient encouru des sanctions disciplinaires ou judiciaires ou à ceux qui pourraient avoir démissionné de leur fonction à Chandernagor ou cessé volontairement leur service entre la date du 2 mai et celle de l'entrée en vigueur du traité. J'ai fait connaître à Votre Excellence que telle était bien l'interprétation que le Gouvernement français donnait à l'article III du Protocole.

Je dois rappeler par ailleurs, qu'au cours des négociations dont il vient d'être question, mon Gouvernement tout en se déclarant disposé à céder au Gouvernement de la République de l'Inde tous les biens de l'Etat et des collectivités publiques qui se trouvent sur le territoire de la Ville Libre de Chandernagor, a manifesté le désir de conserver la propriété de la résidence de l'Administrateur de Chandernagor ainsi que des meubles et objets la garnissant.

Le Gouvernement français se proposait de faire de cette résidence une "Maison de France" ou pourraient être rassemblés certains souvenirs et certaines archives rappelant la présence de la France à Chandernagor.

Votre Excellence a bien voulu me faire connaître que le Gouvernement de la République de l'Inde n'était pas en mesure de répondre favorablement à cette demande et qu'il désirait que la résidence de l'Administrateur français de Chandernagor devint également propriété indienne.

Le Gouvernement de la République de l'Inde ayant toutefois précisé qu'il avait l'intention de mettre la résidence en question à la disposition de la Municipalité de Chandernagor, à charge pour celle-ci d'y installer et d'y entretenir une "Maison du Souvenir Français", le Gouvernement français a accepté de renoncer à la demande qu'il avait précédemment formulée et il a été convenu que cette question serait réglée dans les conditions indiquées par le Gouvernement de la République de l'Inde.

Veuillez agréer, Monsieur l'Ambassadeur, les assurances de ma très haute considération

GUY DE LA TOURNELLE

SON EXCELLENCE

LE SARDAR HARDIT SINGH MALIK

Ambassadeur Extraordinaire et

Plénipotentiaire de l'Inde,

PARIS.

[No. 402-Eur.I/52.]

B. F. H. B. TYABJI, Jt. Secy.